

106TH CONGRESS
2D SESSION

S. 2876

To amend the Social Security Act to enhance privacy protections for individuals, to prevent fraudulent misuse of the social security account number, and to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 14, 2000

Mr. BUNNING introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Social Security Act to enhance privacy protections for individuals, to prevent fraudulent misuse of the social security account number, and to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Privacy and Identity Protection Act of 2000”.

1 (b) TABLE OF CONTENTS.—The table of contents is
 2 as follows:

Sec. 1. Short title and table of contents.
 Sec. 2. Findings.

TITLE I—PROVISIONS RELATING TO THE SOCIAL SECURITY ACCOUNT NUMBER

Sec. 101. Governmental use and treatment of social security account numbers.
 Sec. 102. Regulation of the sale and purchase of the social security account
 number in the private sector.
 Sec. 103. New criminal penalties for misuse of social security account numbers.
 Sec. 104. Extension of civil monetary penalty authority.
 Sec. 105. Authority for judicial orders of restitution.
 Sec. 106. Confidential treatment of credit header information.
 Sec. 107. Law enforcement authority for the Office of the Inspector General of
 the Social Security Administration.

TITLE II—PROVISIONS RELATING TO REPRESENTATIVE PAYEES

Sec. 201. Authority to reissue benefits misused by organizational representative
 payees.
 Sec. 202. Oversight of nongovernmental organizational representative payees.
 Sec. 203. Disqualification from service as representative payee upon conviction
 of offenses punishable by imprisonment for more than 1 year.
 Sec. 204. Fee forfeiture in case of benefit misuse by representative payees.
 Sec. 205. Liability of representative payees for misused benefits.
 Sec. 206. Extension of civil monetary penalty authority with respect to rep-
 resentative payees.

3 **SEC. 2. FINDINGS.**

4 The Congress makes the following findings:

5 (1) The inappropriate sale or purchase of social
 6 security account numbers is a significant factor in a
 7 growing range of illegal activities, including fraud,
 8 identity theft, and, in some cases, stalking and other
 9 violent crimes.

10 (2) While financial institutions, health care pro-
 11 viders, and other entities have often used social se-
 12 curity account numbers to confirm the identity of an
 13 individual, the sale or purchase of these numbers

1 often facilitates the commission of criminal activi-
2 ties, and also can result in serious invasions of indi-
3 vidual privacy.

4 (3) The Federal Government requires virtually
5 every individual in the United States to obtain and
6 maintain a social security account number in order
7 to pay taxes, to qualify for Social Security benefits,
8 or to seek employment. An unintended consequence
9 of these requirements is that social security account
10 numbers have become tools that can be used to fa-
11 cilitate crime, fraud, and invasions of the privacy of
12 the individuals to whom the numbers are assigned.
13 Because the Federal Government created and main-
14 tains this system, and because the Federal Govern-
15 ment does not permit persons to exempt themselves
16 from those requirements, it is appropriate for the
17 Government to take steps to stem the abuse of this
18 system.

19 (4) A social security account number is simply
20 a sequence of numbers. In no meaningful sense can
21 the number itself impart knowledge or ideas. Per-
22 sons do not sell or transfer such numbers in order
23 to convey any particularized message, nor to express
24 to the purchaser any ideas, knowledge, or thoughts.

1 (5) A social security account number does not
2 contain, reflect, or convey any publicly significant in-
3 formation or concern any public issue. The sale of
4 such numbers in no way facilitates uninhibited, ro-
5 bust and wide-open public debate; and restrictions
6 on such sale would not affect public debate.

7 (6) No one should seek to profit from the sale
8 of social security account numbers in circumstances
9 that create a substantial risk of physical, emotional,
10 or financial harm to the individuals to whom those
11 numbers are assigned.

12 (7) Consequently, Congress should enact legis-
13 lation that will offer individuals assigned such num-
14 bers necessary protection from the sale and purchase
15 of social security account numbers in circumstances
16 that might facilitate unlawful conduct or that might
17 otherwise likely result in unfair and deceptive prac-
18 tices.

1 **TITLE I—PROVISIONS RELATING**
2 **TO THE SOCIAL SECURITY AC-**
3 **COUNT NUMBER**

4 **SEC. 101. GOVERNMENTAL USE AND TREATMENT OF SO-**
5 **CIAL SECURITY ACCOUNT NUMBERS.**

6 (a) RESTRICTIONS ON THE SALE OF SOCIAL SECUR-
7 RITY ACCOUNT NUMBERS BY GOVERNMENTAL AGEN-
8 CIES.—

9 (1) IN GENERAL.—Section 205(c)(2)(C) of the
10 Social Security Act (42 U.S.C. 405(c)(2)(C)) is
11 amended by adding at the end the following new
12 clause:

13 “(x) No agency or instrumentality of the Federal
14 Government or of a State or a political subdivision thereof
15 in possession of any individual’s social security account
16 number may accept an item of material value in exchange
17 for such number, or any derivative thereof, except to the
18 extent specifically authorized by this title.”.

19 (2) EFFECTIVE DATE.—The amendment made
20 by this subsection shall apply with respect to viola-
21 tions occurring after 180 days after the date of the
22 enactment of this Act.

23 (b) PROHIBITION OF PUBLIC ACCESS TO SOCIAL SE-
24 CURITY ACCOUNT NUMBERS POSSESSED BY GOVERN-
25 MENTAL AGENCIES.—

1 (1) IN GENERAL.—Section 205(c)(2)(C)(viii) of
2 such Act (42 U.S.C. 405(c)(2)(C)(viii)) is amended
3 by adding at the end the following new subclause:

4 “(V) No agency or instrumentality of the Federal
5 Government or of a State or a political subdivision thereof
6 may display to the general public any individual’s social
7 security account number, or any derivative of such num-
8 ber. Each such agency or instrumentality shall ensure that
9 access to such numbers, and any derivative of such num-
10 bers, is restricted to persons who may obtain them in ac-
11 cordance with applicable law. For purposes of this sub-
12 clause, the term ‘display to the general public’ in connec-
13 tion with a social security account number, or a derivative
14 thereof, means the intentional placing of such number or
15 derivative in a viewable manner on an Internet site that
16 is available to the general public or in material made avail-
17 able or sold to the general public.”.

18 (2) EFFECTIVE DATE.—The amendment made
19 by this subsection shall apply only with respect to
20 displays originally occurring after 2 years after the
21 date of the enactment of this Act.

22 (c) REPORT BY GENERAL ACCOUNTING OFFICE ON
23 USE BY GOVERNMENTAL AGENCIES AS PERSONAL IDEN-
24 TIFICATION NUMBER.—

1 (1) STUDY.—The Comptroller General of the
2 United States shall undertake a study of—

3 (A) the current usage, by agencies and in-
4 strumentalities in all branches of the Federal
5 Government and by agencies and instrumental-
6 ities of States and political subdivisions thereof,
7 of the social security account numbers of indi-
8 viduals, and derivatives of such numbers, for
9 purposes of identification of such individuals,
10 and

11 (B) the most effective means by which any
12 such usage extending beyond the original pur-
13 poses of the social security account number may
14 be minimized.

15 (2) REPORT.—Not later than 1 year after the
16 date of the enactment of this Act, the Comptroller
17 General shall submit a report to the Committee on
18 Ways and Means of the House of Representatives
19 and the Committee on Finance of the Senate setting
20 forth the results of the study conducted pursuant to
21 this subsection. Such report shall contain such rec-
22 ommendations, including proposals for legislative
23 changes, as the Comptroller General deems appro-
24 priate.

1 (d) PROHIBITION OF USE OF SOCIAL SECURITY AC-
2 COUNT NUMBER ON CHECKS ISSUED FOR PAYMENT BY
3 GOVERNMENTAL AGENCIES.—

4 (1) IN GENERAL.—Section 205(c)(2)(C) of the
5 Social Security Act (42 U.S.C. 405(c)(2)(C)) (as
6 amended by subsection (a)) is amended further by
7 adding at the end the following new clause:

8 “(xi) No agency or instrumentality of the Federal
9 Government or of a State or a political subdivision thereof
10 may include the social security account number of any in-
11 dividual, or any derivative of such number, on any check
12 issued for any payment by the Federal Government, any
13 State or political subdivision thereof, or any agency or in-
14 strumentality thereof.”.

15 (2) EFFECTIVE DATE.—The amendment made
16 by this subsection shall apply with respect to viola-
17 tions occurring after 2 years after the date of the
18 enactment of this Act.

19 (e) INDEPENDENT VERIFICATION OF BIRTH
20 RECORDS PROVIDED IN SUPPORT OF APPLICATIONS FOR
21 SOCIAL SECURITY ACCOUNT NUMBERS.—

22 (1) IN GENERAL.—Section 205(c)(2)(B)(ii) of
23 such Act (42 U.S.C. 405(c)(2)(B)(ii)) is amended by
24 adding at the end the following new sentence: “With
25 respect to an application for a social security ac-

1 count number for an individual other than for pur-
 2 poses of enumeration at birth, the Commissioner
 3 shall require independent verification of any birth
 4 record provided by the applicant in support of the
 5 application.”.

6 (2) EFFECTIVE DATE.—The amendment made
 7 by paragraph (1) shall apply with respect to applica-
 8 tions filed after 1 year after the date of the enact-
 9 ment of this Act.

10 (3) REPORT ON ENUMERATION AT ENTRY.—
 11 Not later than 1 year after the date of the enact-
 12 ment of this Act, the Commissioner of Social Secu-
 13 rity and the Attorney General of the United States
 14 shall jointly submit a report detailing the progress of
 15 the Social Security Administration and the Immigra-
 16 tion and Naturalization Service in implementing a
 17 process for enumeration at entry for aliens entering
 18 the United States. Such report shall be submitted to
 19 the Committee on Ways and Means and the Com-
 20 mittee on the Judiciary of the House of Representa-
 21 tives and the Committee on Finance and the Com-
 22 mittee on the Judiciary of the Senate.

23 (f) PROHIBITION OF APPEARANCE OF SOCIAL SECU-
 24 RITY ACCOUNT NUMBERS ON DRIVER’S LICENSES OR
 25 MOTOR VEHICLE REGISTRATION.—

1 (1) IN GENERAL.—Section 205(c)(2)(C)(vi) of
 2 such Act (42 U.S.C. 405(c)(2)(C)(vi)) is amended—

3 (A) by inserting “(I)” after “(vi)”; and

4 (B) by adding at the end the following new
 5 subclause:

6 “(II) A State (or political subdivision thereof), in the
 7 administration of any driver’s license or motor vehicle reg-
 8 istration law within its jurisdiction, may not disclose the
 9 social security account numbers issued by the Commis-
 10 sioner of Social Security, or any derivative of such num-
 11 bers, on any driver’s license or motor vehicle registration
 12 or any other document issued by such State or political
 13 subdivision to an individual for purposes of identification
 14 of such individual.”.

15 (2) EFFECTIVE DATE.—The amendment made
 16 by this subsection shall apply with respect to li-
 17 censes, registrations, and other documents issued or
 18 reissued after 180 days after the date of the enact-
 19 ment of this Act.

20 (g) PROHIBITION OF DISPLAY BY GOVERNMENTAL
 21 AGENCIES OF PERSONAL IDENTIFICATION NUMBER.—

22 (1) IN GENERAL.—Section 205(c)(2)(C) of the
 23 Social Security Act (42 U.S.C. 405(c)(2)(C)) (as
 24 amended by the preceding provisions of this section)

1 is amended further by adding at the end the fol-
 2 lowing new clause:

3 “(xii) No agency or instrumentality of the Federal
 4 Government or of a State or political subdivison thereof
 5 may display the social security account number, or any
 6 deriviative of such number, on any card or tag provided
 7 to the employee for purposes of identification. For pur-
 8 poses of this clause, the term ‘display’ in connection with
 9 a social security account number, or a derivative thereof,
 10 means the intentional placing of such number or derivitive
 11 in a viewable manner on a card or tag that is commonly
 12 provided to the individual and is to be maintained by the
 13 individual.”.

14 (2) EFFECTIVE DATE.—The amendment made
 15 by this subsection shall apply with respect to viola-
 16 tions occurring after 1 year after the date of the en-
 17 actment of this Act.

18 **SEC. 102. REGULATION OF THE SALE AND PURCHASE OF**
 19 **THE SOCIAL SECURITY ACCOUNT NUMBER IN**
 20 **THE PRIVATE SECTOR.**

21 (a) DEFINITIONS.—In this section:

22 (1) COMMISSION.—The term “Commission”
 23 means the Federal Trade Commission.

1 (2) PERSON.—The term “person” means any
2 individual, partnership, corporation, trust, estate, co-
3 operative, association, or any other entity.

4 (3) SALE.—The term “sell” in connection with
5 a social security account number means to obtain,
6 directly or indirectly, anything of value in exchange
7 for such number. Such term does not include the
8 submission of such number as part of the process
9 for applying for any type of Government benefits or
10 programs (such as grants or loans or welfare or
11 other public assistance programs). Such term also
12 does not include transfers of such number as part of
13 a data matching program under the Computer
14 Matching and Privacy Protection Act and the
15 amendments made thereby.

16 (4) PURCHASE.—The term “purchase” in con-
17 nection with a social security account number means
18 to provide, directly or indirectly, anything of value in
19 exchange for such number. Such term does not in-
20 clude the submission of such number as part of the
21 process for applying for any type of Government
22 benefit or programs (such as grant or loan applica-
23 tions or welfare or other public assistance pro-
24 grams). Such term also does not include transfers of
25 such number as part of a data matching program

1 under the Computer Matching and Privacy Protec-
2 tion Act and the amendments made thereby.

3 (5) SOCIAL SECURITY ACCOUNT NUMBER.—The
4 term ‘social security account number’ has the mean-
5 ing given such term in section 208 of the Social Se-
6 curity Act (42 U.S.C. 408).

7 (6) STATE.—The term “State” means any
8 State of the United States, the District of Columbia,
9 Puerto Rico, the Northern Mariana Islands, the
10 United States Virgin Islands, Guam, American
11 Samoa, and any territory or possession of the
12 United States.

13 (b) PROHIBITION.—It shall be unlawful for any per-
14 son to sell or purchase a social security account number
15 in a manner that violates a regulation promulgated by the
16 Commission under subsection (c) of this section.

17 (c) REGULATIONS.—

18 (1) RESTRICTIONS AUTHORIZED.—The Com-
19 mission, after consultation with the Commissioner of
20 Social Security, the Department of Justice, and
21 other agencies as the Commission deems appro-
22 priate, shall promulgate regulations restricting the
23 sale and purchase of social security account numbers
24 and any unfair or deceptive acts or practices in con-

1 nection with the sale and purchase of social security
2 account numbers.

3 (2) LIMITATIONS ON RESTRICTIONS.—In pro-
4 mulgating such regulations, the Commission shall
5 impose restrictions and conditions on the sale and
6 purchase of social security account numbers that are
7 no broader than necessary—

8 (A) to provide reasonable assurance that
9 social security account numbers will not be used
10 to commit or facilitate fraud, deception, or
11 crime; and

12 (B) to prevent an undue risk of bodily,
13 emotional, or financial harm to individuals.

14 For purposes of subparagraph (B), the Commission
15 shall consider the nature, likelihood, and severity of
16 the anticipated harm; the nature, likelihood, and ex-
17 tent of any benefits that could be realized from the
18 sale or purchase of the numbers; and any other rel-
19 evant factors.

20 (3) EXCEPTIONS.—The regulations promul-
21 gated pursuant to paragraph (1) shall include excep-
22 tions which permit the sale and purchase of social
23 security account numbers—

24 (A) to the extent necessary for law enforce-
25 ment or national security purposes;

1 (B) to the extent necessary for public
2 health purposes;

3 (C) to the extent necessary in emergency
4 situations to protect the health or safety of 1
5 or more individuals;

6 (D) to the extent necessary for research
7 conducted for the purpose of advancing public
8 knowledge, on the condition that the researcher
9 provides adequate assurances that—

10 (i) the social security account num-
11 bers will not be used to harass, target, or
12 publicly reveal information concerning any
13 identifiable individuals;

14 (ii) information about identifiable in-
15 dividuals obtained from the research will
16 not to be used to make decisions that di-
17 rectly affect the rights, benefits, or privi-
18 leges of specific individuals; and

19 (iii) the researcher has in place appro-
20 priate safeguards to protect the privacy
21 and confidentiality of any information
22 about identifiable individuals;

23 (E) to the extent consistent with an indi-
24 vidual's voluntary and affirmative written con-
25 sent to the sale or purchase of a social security

1 account number that has been assigned to that
2 individual; and

3 (F) under other appropriate circumstances
4 as the Commission may determine are con-
5 sistent with the findings in section 2 of this Act
6 and the principles in paragraph (2).

7 (d) RULEMAKING.—

8 (1) DEADLINE FOR ACTION.—Not later than 1
9 year after the date of enactment of this Act, the
10 Commission shall promulgate the regulations under
11 subsection (c) of this section, in accordance with sec-
12 tion 553 of title 5, United States Code.

13 (2) EFFECTIVE DATES.—Subsection (b) and the
14 regulations promulgated under subsection (c) shall
15 take effect 30 days after the date on which the final
16 regulations issued under this section are published
17 in the Federal Register.

18 (e) ENFORCEMENT.—Any violation of a regulation
19 promulgated under subsection (c) of this section shall be
20 treated as a violation of a regulation under section
21 18(a)(1)(B) of the Federal Trade Commission Act (15
22 U.S.C. 57a(a)(1)(B)) regarding unfair or deceptive acts
23 or practices.

24 (f) ADMINISTRATION AND APPLICABILITY OF ACT.—

1 (1) THE COMMISSION.—The Commission shall
2 prevent any person from violating this section, and
3 any regulation promulgated thereunder, in the same
4 manner, by the same means, and with the same ju-
5 risdiction, powers, and duties as though all applica-
6 ble terms and provisions of the Federal Trade Com-
7 mission Act (15 U.S.C. 41 et seq.) were incor-
8 porated into and made a part of this section. Any
9 person who violates such regulation shall be subject
10 to the penalties and entitled to the privileges and
11 immunities provided in the Federal Trade Commis-
12 sion Act (15 U.S.C. 41 et seq.) as though all appli-
13 cable terms and provisions of the Federal Trade
14 Commission Act (15 U.S.C. 41 et seq.) were incor-
15 porated into and made a part of this section. Noth-
16 ing contained in this section shall be construed to
17 limit the authority of the Commission under any
18 other provision of law.

19 (2) ACTIONS BY STATES.—

20 (A) CIVIL ACTIONS.—In any case in which
21 the attorney general of a State has reason to
22 believe that an interest of the residents of that
23 State has been or is threatened or adversely af-
24 fected by an act or practice that violates any
25 regulation of the Commission promulgated

1 under subsection (c), the State, as parens
2 patriae, may bring a civil action on behalf of
3 the residents of the State in a district court of
4 the United States of appropriate jurisdiction,
5 to—

6 (i) enjoin that act or practice;

7 (ii) enforce compliance with the regu-
8 lation;

9 (iii) obtain damages, restitution, or
10 other compensation on behalf of residents
11 of the State; or

12 (iv) obtain such other legal and equi-
13 table relief as the district court may con-
14 sider to be appropriate.

15 Before filing an action under this subsection,
16 the attorney general of the State involved shall
17 provide to the Commission and to the Attorney
18 General a written notice of that action and a
19 copy of the complaint for that action. If the
20 State attorney general determines that it is not
21 feasible to provide the notice described in this
22 subparagraph before the filing of the action, the
23 State attorney general shall provide the written
24 notice and the copy of the complaint to the
25 Commission and to the Attorney General as

1 soon after the filing of the complaint as prac-
2 ticable.

3 (B) COMMISSION AND ATTORNEY GENERAL
4 AUTHORITY.—On receiving notice under sub-
5 paragraph (A), the Commission and the Attor-
6 ney General each shall have the right—

7 (i) to move to stay the action, pending
8 the final disposition of a pending Federal
9 matter as described in subparagraph (C);

10 (ii) to intervene in an action under
11 clause (i);

12 (iii) upon so intervening, to be heard
13 on all matters arising therein; and

14 (iv) to file petitions for appeal.

15 (C) PENDING CRIMINAL PROCEEDINGS.—If
16 the Attorney General has instituted a criminal
17 proceeding or the Federal Trade Commission
18 has instituted a civil action for a violation of
19 this Act or any regulations thereunder, no State
20 may, during the pendency of such proceeding or
21 action, bring an action under this section
22 against any defendant named in the criminal
23 proceeding or civil action for any violation of
24 this section that is alleged in that proceeding or
25 action.

1 (D) RULE OF CONSTRUCTION.—For pur-
2 poses of bringing any civil action under sub-
3 paragraph (A), nothing in this Act shall be con-
4 strued to prevent an attorney general of a State
5 from exercising the powers conferred on the at-
6 torney general by the laws of that State to con-
7 duct investigations, administer oaths and affir-
8 mations, or compel the attendance of witnesses
9 or the production of documentary and other evi-
10 dence.

11 (E) VENUE; SERVICE OF PROCESS.—Any
12 action brought under this section may be
13 brought in any district court of the United
14 States that meets applicable requirements relat-
15 ing to venue under section 1391 of title 28,
16 United States Code. In an action brought under
17 this section, process may be served in any dis-
18 trict in which the defendant is an inhabitant or
19 may be found.

20 (g) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—Any
21 person who refuses to do business with an individual be-
22 cause the individual will not consent to the receipt by such
23 person of the social security account number of such indi-
24 vidual shall be considered to have committed an unfair or
25 deceptive act or practice in violation of section 5 of the

1 Federal Trade Commission Act (15 U.S.C. 45). Action
 2 may be taken under such section 5 against such a person.

3 **SEC. 103. NEW CRIMINAL PENALTIES FOR MISUSE OF SO-**
 4 **CIAL SECURITY ACCOUNT NUMBERS.**

5 (a) SALE AND PURCHASE OF SOCIAL SECURITY AC-
 6 COUNT NUMBERS.—Section 208 of the Social Security Act
 7 (42 U.S.C. 408) is amended—

8 (1) in subsection (a)(8), by striking “or” and
 9 by inserting “, or knowingly sells or purchases”
 10 after “the disclosure of”;

11 (2) in subsection (c), by striking the last sen-
 12 tence;

13 (3) by redesignating subsection (d) as sub-
 14 section (e); and

15 (4) by inserting after subsection (c) the fol-
 16 lowing new subsection:

17 “(d)(1) For purposes of subsection (a)(7), the term
 18 ‘social security account number’ means a number assigned
 19 by the Commissioner of Social Security under section
 20 205(c)(2) whether or not, in actual use, such number is
 21 called a social security account number.

22 “(2) For purposes of subsection (a)(8), the term ‘sell’
 23 in connection with a social security account number means
 24 to obtain, directly or indirectly, anything of value in ex-
 25 change for such number. Such term does not include the

1 submission of such number as part of the process for ap-
 2 plying for any type of Government benefits or programs
 3 (such as grants or loans or welfare or other public assist-
 4 ance programs). Such term also does not include a trans-
 5 fer of such number as part of a data matching program
 6 under the Computer Matching and Privacy Protection Act
 7 and the amendments made thereby.

8 “(3) For purposes of subsection (a)(8), the term ‘pur-
 9 chase’ in connection with a social security account number
 10 means to provide, directly or indirectly, anything of value
 11 in exchange for such number. Such term does not include
 12 the submission of such number as part of the process for
 13 applying for any type of Government benefits or programs
 14 (such as grants or loans or welfare or other public assist-
 15 ance programs). Such term also does not include a trans-
 16 fer of such number as part of a data matching program
 17 under the Computer Matching and Privacy Protection Act
 18 and the amendments made thereby.”.

19 (b) ADDITIONAL PROVISIONS.—

20 (1) IN GENERAL.—Section 208(a) of such Act
 21 is amended further—

22 (A) in paragraph (8), by adding “or” at
 23 the end; and

24 (B) by inserting after paragraph (8) the
 25 following new paragraphs:

1 “(9) offers, for a fee, to acquire for any indi-
 2 vidual, or to assist in acquiring for any individual,
 3 an additional social security account number or a
 4 number that purports to be a social security account
 5 number; or

6 “(10) being an officer or employee of any agen-
 7 cy of the Federal Government or of a State or polit-
 8 ical subdivision thereof in possession of any individ-
 9 ual’s social security account number, willfully acts or
 10 fails to act so as to cause a violation by such agency
 11 of clause (vi)(II), (viii)(V), (x), or (xi) of section
 12 205(c)(2)(C);”.

13 (2) EFFECTIVE DATES.—Section 208(a)(9) of
 14 the Social Security Act (added by paragraph (1))
 15 shall apply with respect to violations occurring after
 16 the date of the enactment of this Act. Section
 17 208(a)(10) of such Act (added by paragraph (1))
 18 shall apply with respect to violations occurring on an
 19 after the effective date applicable with respect to
 20 such violations under section 101.

21 **SEC. 104. EXTENSION OF CIVIL MONETARY PENALTY AU-**
 22 **THORITY.**

23 (a) TREATMENT OF WITHHOLDING OF MATERIAL
 24 FACTS.—

1 (1) CIVIL PENALTIES.—Section 1129(a)(1) of
2 the Social Security Act (42 U.S.C. 1320a–8(a)(1)) is
3 amended in the first sentence—

4 (A) by striking “who” and inserting
5 “who—”;

6 (B) by striking “makes” and all that fol-
7 lows through “shall be subject to” and inserting
8 the following:

9 “(A) makes, or causes to be made, a statement
10 or representation of a material fact, for use in deter-
11 mining any initial or continuing right to or the
12 amount of monthly insurance benefits under title II
13 or benefits or payments under title XVI, that the
14 person knows or should know is false or misleading,

15 “(B) makes such a statement or representation
16 for such use with knowing disregard for the truth,
17 or

18 “(C) omits from a statement or representation
19 for such use, or otherwise withholds disclosure of, a
20 fact which the individual knows or should know is
21 material to the determination of any initial or con-
22 tinuing right to or the amount of monthly insurance
23 benefits under title II or benefits or payments under
24 title XVI and the individual knows, or should know,
25 that the statement or representation with such omis-

1 sion is false or misleading or that the withholding of
 2 such disclosure is misleading,
 3 shall be subject to”;

4 (C) by inserting “or each receipt of such
 5 benefits while withholding disclosure of such
 6 fact” after “each such statement or representa-
 7 tion”;

8 (D) by inserting “or because of such with-
 9 holding of disclosure of a material fact” after
 10 “because of such statement or representation”;
 11 and

12 (E) by inserting “or such a withholding of
 13 disclosure” after “such a statement or rep-
 14 resentation”.

15 (2) ADMINISTRATIVE PROCEDURE FOR IMPOS-
 16 ING PENALTIES.—Section 1129A(a) of such Act (42
 17 U.S.C. 1320a–8a(a)) is amended in the first
 18 sentence—

19 (A) by striking “who” and inserting
 20 “who—”; and

21 (B) by striking “makes” and all that fol-
 22 lows through “shall be subject to,” and insert-
 23 ing the following:

24 “(1) makes, or causes to be made, a statement
 25 or representation of a material fact, for use in deter-

1 mining any initial or continuing right to or the
 2 amount of monthly insurance benefits under title II
 3 or benefits or payments under title XVI, that the
 4 person knows or should know is false or misleading,

5 “(2) makes such a statement or representation
 6 for such use with knowing disregard for the truth,
 7 or

8 “(3) omits from a statement or representation
 9 for such use, or otherwise withholds disclosure of, a
 10 fact which the individual knows or should know is
 11 material to the determination of any initial or con-
 12 tinuing right to or the amount of monthly insurance
 13 benefits under title II or benefits or payments under
 14 title XVI and the individual knows, or should know,
 15 that the statement or representation with such omis-
 16 sion is false or misleading or that the withholding of
 17 such disclosure is misleading,
 18 shall be subject to,”.

19 (b) APPLICATION OF CIVIL MONEY PENALTIES TO
 20 ELEMENTS OF CRIMINAL VIOLATIONS.—Section 1129(a)
 21 of such Act (42 U.S.C. 1320a–8(a)) is amended further—

22 (1) by redesignating paragraph (2) as para-
 23 graph (4);

1 (2) by designating the last sentence of para-
2 graph (1) as a new paragraph (2), appearing after
3 and below paragraph (1); and

4 (3) by inserting after paragraph (2) (as des-
5 ignated under paragraph (2) of this subsection) the
6 following:

7 “(3) Any person (including an organization, agency,
8 or other entity) who—

9 “(A) uses a social security account number that
10 such person knows or should know has been as-
11 signed by the Commissioner of Social Security (in an
12 exercise of authority under section 205(c)(2) to es-
13 tablish and maintain records) on the basis of false
14 information furnished to the Commissioner by any
15 person;

16 “(B) falsely represents a number to be the so-
17 cial security account number assigned by the Com-
18 missioner of Social Security to any individual, when
19 such person knows or should know that such number
20 is not the social security account number assigned
21 by the Commissioner to such individual;

22 “(C) knowingly alters a social security card
23 issued by the Commissioner of Social Security, or
24 possesses such a card with intent to alter it;

1 “(D) knowingly buys or sells a card that is, or
2 purports to be, a card issued by the Commissioner
3 of Social Security, or possesses such a card with in-
4 tent to buy or sell it;

5 “(E) counterfeits a social security card, or pos-
6 sesses a counterfeit social security card with intent
7 to buy or sell it;

8 “(F) discloses, uses, compels the disclosure of,
9 or knowingly sells or purchases the social security
10 account number of any person in violation of the
11 laws of the United States;

12 “(G) with intent to deceive the Commissioner of
13 Social Security as to such person’s true identity (or
14 the true identity of any other person) furnishes or
15 causes to be furnished false information to the Com-
16 missioner with respect to any information required
17 by the Commissioner in connection with the estab-
18 lishment and maintenance of the records provided
19 for in section 205(c)(2);

20 “(H) offers, for a fee, to acquire for any indi-
21 vidual, or to assist in acquiring for any individual,
22 an additional social security account number or a
23 number which purports to be a social security ac-
24 count number; or

1 “(I) being an officer or employee of any agency
 2 of the Federal Government or of a State or political
 3 subdivision thereof in possession of any individual’s
 4 social security account number, willfully acts or fails
 5 to act so as to cause a violation by such agency of
 6 clause (vi)(II), (viii)(V), (x), or (xi) of section
 7 205(c)(2)(C);

8 shall be subject to, in addition to any other penalties that
 9 may be prescribed by law, a civil money penalty of not
 10 more than \$5,000 for each violation. Such person shall
 11 also be subject to an assessment, in lieu of damages sus-
 12 tained by the United States resulting from such violation,
 13 of not more than twice the amount of any benefits or pay-
 14 ments paid as a result of such violation.”.

15 (c) CLARIFICATION OF TREATMENT OF RECOVERED
 16 AMOUNTS.—Section 1129(e)(2)(B) of such Act (42
 17 U.S.C. 1320a–8(e)(2)(B)) is amended by striking “In the
 18 case of amounts recovered arising out of a determination
 19 relating to title XVI,” and inserting “In the case of any
 20 other amounts recovered under this section,”.

21 (d) CONFORMING AMENDMENTS.—

22 (1) Section 1129(b)(3)(A) of such Act (42
 23 U.S.C. 1320a–8(b)(3)(A)) is amended by striking
 24 “charging fraud or false statements”.

1 (2) Section 1129(c)(1) of such Act (42 U.S.C.
2 1320a–8(c)(1)) is amended by striking “and rep-
3 resentations” and inserting “, representations, or ac-
4 tions”.

5 (3) Section 1129(e)(1)(A) of such Act (42
6 U.S.C. 1320a–8(e)(1)(A)) is amended by striking
7 “statement or representation referred to in sub-
8 section (a) was made” and inserting “violation oc-
9 curred”.

10 (e) EFFECTIVE DATES.—The amendments made by
11 this section shall apply with respect to violations com-
12 mitted after the date of the enactment of this Act, except
13 that section 1129(a)(3)(I) of the Social Security Act
14 (added by subsection (b)) shall apply with respect to viola-
15 tions occurring on or after the effective date provided in
16 connection with such violations under section 101.

17 **SEC. 105. AUTHORITY FOR JUDICIAL ORDERS OF RESTITU-**
18 **TION.**

19 (a) AMENDMENTS TO TITLE II.—Section 208 of the
20 Social Security Act (42 U.S.C. 408) is amended—

21 (1) by redesignating subsections (b), (c), and
22 (d) as subsections (c), (d), and (e), respectively; and

23 (2) by inserting after subsection (a) the fol-
24 lowing new subsection:

1 “(b)(1) Any Federal court, when sentencing a defend-
 2 ant convicted of an offense under subsection (a), may
 3 order, in addition to or in lieu of any other penalty author-
 4 ized by law, that the defendant make restitution to the
 5 Social Security Administration.

6 “(2) Sections 3612, 3663, and 3664 of title 18,
 7 United States Code, shall apply with respect to the
 8 issuance and enforcement of orders of restitution under
 9 this subsection. In so applying such sections, the Social
 10 Security Administration shall be considered the victim.

11 “(3) If the court does not order restitution, or orders
 12 only partial restitution, under this section, the court shall
 13 state on the record the reasons therefor.”.

14 (b) AMENDMENTS TO TITLE XVI.—Section 1632 of
 15 such Act (42 U.S.C. 1383a) is amended—

16 (1) by redesignating subsection (b) as sub-
 17 section (c); and

18 (2) by inserting after subsection (a) the fol-
 19 lowing new subsection:

20 “(b)(1) Any Federal court, when sentencing a defend-
 21 ant convicted of an offense under subsection (a), may
 22 order, in addition to or in lieu of any other penalty author-
 23 ized by law, that the defendant make restitution to the
 24 Social Security Administration.

1 “(2) Sections 3612, 3663, and 3664 of title 18,
2 United States Code, shall apply with respect to the
3 issuance and enforcement of orders of restitution under
4 this subsection. In so applying such sections, and the So-
5 cial Security Administration shall be considered the vic-
6 tim.

7 “(3) If the court does not order restitution, or orders
8 only partial restitution, under this section, the court shall
9 state on the record the reasons therefor.”.

10 (c) SPECIAL ACCOUNT FOR RECEIPT OF RESTITU-
11 TION PAYMENTS.—Section 704(b) of such Act (42 U.S.C.
12 904(b)) is amended by adding at the end the following
13 new paragraph:

14 “(3)(A) Except as provided in subparagraph (B),
15 amounts received by the Social Security Administration
16 pursuant to an order of restitution under section 208(b)
17 or 1632(b) shall be credited to a special fund established
18 in the Treasury of the United States for amounts so re-
19 ceived or recovered. The amounts so credited, to the extent
20 and in the amounts provided in advance in appropriations
21 Acts, shall be available to defray expenses incurred in car-
22 rying out title II and title XVI.

23 “(B) Subparagraph (A) shall not apply with respect
24 to amounts received in connection with misuse by a rep-
25 resentative payee (within the meaning of sections 205(j)

1 and 1631(a)(2)) of funds paid as benefits under title II
 2 or XVI. Such amounts received in connection with misuse
 3 of funds paid as benefits under title II shall be transferred
 4 to the Managing Trustee of the Federal Old-Age and Sur-
 5 vivors Insurance Trust Fund or the Federal Disability In-
 6 surance Trust Fund, as determined appropriate by the
 7 Commissioner of Social Security, and such amounts shall
 8 be deposited by the Managing Trustee into such Trust
 9 Fund. All other such amounts shall be deposited by the
 10 Commissioner into the general fund of the Treasury as
 11 miscellaneous receipts.”.

12 (d) EFFECTIVE DATE.—The amendments made by
 13 subsections (a) and (b) shall apply with respect to viola-
 14 tions occurring on or after the date of the enactment of
 15 this Act.

16 **SEC. 106. CONFIDENTIAL TREATMENT OF CREDIT HEADER**
 17 **INFORMATION.**

18 (a) IN GENERAL.—Section 603(d) of the Fair Credit
 19 Reporting Act (15 U.S.C. 1681a(d)) is amended by insert-
 20 ing after the first sentence the following: “The term also
 21 includes information regarding the social security account
 22 number of the consumer or any derivative thereof.”.

23 (b) EFFECTIVE DATE.—The amendment made by
 24 this section shall take effect 90 days after the date of the
 25 enactment of this Act.

1 **SEC. 107. LAW ENFORCEMENT AUTHORITY FOR THE OF-**
 2 **FICE OF THE INSPECTOR GENERAL OF THE**
 3 **SOCIAL SECURITY ADMINISTRATION.**

4 Section 702(e) of the Social Security Act (42 U.S.C.
 5 902(e)) is amended—

6 (1) by inserting “(1) IN GENERAL.—” after
 7 “(e)”; and

8 (2) by adding at the end the following:

9 “(2) LAW ENFORCEMENT AUTHORITY.—

10 “(A) SPECIFIC DESIGNATIONS.—The Inspector
 11 General may designate one or more special agents in
 12 the Office of the Inspector General to exercise the
 13 authorities specified in subparagraph (B).

14 “(B) AUTHORITIES.—A special agent in the Of-
 15 fice of the Inspector General who is designated
 16 under subparagraph (A) may—

17 “(i) carry firearms,

18 “(ii) execute and serve any warrant or
 19 other process issued under the authority of the
 20 United States, and

21 “(iii) make arrests without warrant for—

22 “(I) any offense against the United
 23 States committed in the special agent’s
 24 presence, or

25 “(II) any offense punishable under
 26 Federal law by imprisonment for more

1 than 1 year, if the special agent has prob-
2 able cause to believe that the person to be
3 arrested has committed or is committing
4 the offense.

5 “(C) SPECIAL AGENT.—For purposes of this
6 paragraph, the term ‘special agent’ means an em-
7 ployee in the Office of the Inspector General whose
8 duties include conducting, supervising, and coordi-
9 nating investigations of criminal activity in the pro-
10 grams and operations of the Administration.

11 “(D) USE OF STATE OR LOCAL LAW ENFORCE-
12 MENT OFFICERS.—

13 “(i) IN GENERAL.—Any State or local law
14 enforcement officer designated by the Inspector
15 General, while assisting a special agent des-
16 ignated under subparagraph (A), may exercise
17 the authorities provided under subparagraph
18 (B).

19 “(ii) APPLICABILITY OF PROVISIONS GOV-
20 ERNING FEDERAL EMPLOYEES.—

21 “(I) IN GENERAL.—Any such officer
22 shall not be deemed a Federal employee,
23 and, subject to subclause (II), shall not be
24 subject to provisions of law relating to
25 Federal employees, solely by reason of the

exercise by such officer of any such authority.

“(II) APPLICABILITY OF CERTAIN PROVISIONS.—While exercising such authority, such officer shall be subject to subsection (c) of section 3374 of title 5, United States Code, as if such officer were assigned and appointed as described in such section, except that nothing in this clause shall be construed to authorize Federal pay or other compensation for such officer.

“(E) GUIDELINES ON EXERCISE OF AUTHORITIES.—The authorities provided under subparagraph (B) shall be exercised in accordance with guidelines prescribed by the Inspector General and approved by the Attorney General of the United States.”.

TITLE II—PROVISIONS RELATING TO REPRESENTATIVE PAYEES

SECTION 201. AUTHORITY TO REISSUE BENEFITS MISUSED BY ORGANIZATIONAL REPRESENTATIVE PAYEES.

(a) OASDI AMENDMENT.—Section 205(j)(5) of the Social Security Act (42 U.S.C. 405(j)(5)) is amended by

1 inserting after the first sentence the following new sen-
 2 tence: “In any case in which a representative payee—

3 “(i) that is not an individual (regardless of
 4 whether it is a ‘qualified organization’ within the
 5 meaning of paragraph (4)(B)); or

6 “(ii) is an individual who, for any month during
 7 a period when misuse occurs, serves 10 or more indi-
 8 viduals who are beneficiaries under title II, title
 9 XVI, title VIII, or any combination of such titles;

10 misuses all or part of an individual’s benefit paid to such
 11 representative payee, the Commissioner of Social Security
 12 shall certify for payment to the beneficiary or the bene-
 13 ficiary’s alternative representative payee an amount equal
 14 to the amount of such benefit so misused. The provisions
 15 of this paragraph are subject to the limitations of para-
 16 graph (6)(B).”.

17 (b) SSI AMENDMENT.—Section 1631(a)(2)(E) of
 18 such Act (42 U.S.C. 1383(a)(2)(E)) is amended by insert-
 19 ing after the first sentence the following new sentence: “In
 20 any case in which a representative payee—

21 “(i) that is not an individual (regardless of
 22 whether it is a ‘qualified organization’ within the
 23 meaning of subparagraph (D)(ii)); or

24 “(ii) is an individual who, for any month during
 25 a period when misuse occurs, serves 10 or more indi-

viduals who are beneficiaries under title II, title XVI, title VIII, or any combination of such titles; misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall make payment to the beneficiary or the beneficiary's alternative representative payee of an amount equal to the amount of such benefit so misused. The provisions of this subparagraph are subject to the limitations of subparagraph (F)(ii).”.

(c) EFFECTIVE DATE.—The preceding amendments made by this section shall apply to any case of benefit misuse by a representative payee with respect to which the Commissioner makes the determination of misuse after the date of the enactment of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–501).

(d) TECHNICAL AMENDMENT.—Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) is amended by striking paragraph (6).

SEC. 202. OVERSIGHT OF NONGOVERNMENTAL ORGANIZATIONAL REPRESENTATIVE PAYEES.

(a) CERTIFICATION OF BONDING AND LICENSING REQUIREMENTS.—

(1) OASDI AMENDMENT.—Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) is amended—

1 (A) in paragraph (2)(C)(v)—

2 (i) by striking “a community-based
3 nonprofit social service agency licensed or
4 bonded by the State” in subclause (I) and
5 inserting “a certified community-based
6 nonprofit social service agency; and

7 (ii) by adding at the end the fol-
8 lowing: “For purposes of subclause (I), the
9 term ‘certified community-based nonprofit
10 social service agency’ means a community
11 based nonprofit social service agency which
12 is in compliance with requirements, under
13 regulations which shall be prescribed by
14 the Commissioner, for annual certification
15 to the Commissioner that it is bonded in
16 accordance with requirements specified by
17 the Commissioner and that it is licensed in
18 each State in which it serves as a rep-
19 resentative payee (if licensing is available
20 in such State in accordance with require-
21 ments specified by the Commissioner). Any
22 such annual certification shall include a
23 copy of any independent audit on such
24 agency which may have been performed
25 since the previous certification.”; and

(B) in paragraph (4)(B), by striking “any community-based nonprofit social service agency which is bonded or licensed in each State in which it serves as a representative payee” and inserting “any certified community-based nonprofit social service agency (as defined in paragraph (2)(C)(v))”.

(2) SSI AMENDMENT.—Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) is amended—

(A) in subparagraph (B)(vii)—

(i) by striking “a community-based nonprofit social service agency licensed or bonded by the State” in subclause (I) and inserting “a certified community-based nonprofit social service agency”; and

(ii) by adding at the end the following: “For purposes of subclause (I), the term ‘certified community-based nonprofit social service agency’ means a community based nonprofit social service agency which is in compliance with requirements, under regulations which shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by

the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in such State in accordance with requirements specified by the Commissioner). Any such annual certification shall include a copy of any independent audit on such agency which may have been performed since the previous certification.”; and

(B) in subparagraph (D)(ii)—

(i) by striking “or any community-based” and all that follows down through “in accordance” in subclause (II) and inserting “or any certified community-based nonprofit social service agency (as defined in subparagraph (B)(vii)), if such agency, in accordance”;

(ii) by redesignating items (aa) and (bb) as subclauses (I) and (II), respectively (and adjusting the margination accordingly); and

(iii) by striking “subclause (II)(bb)” and inserting “subclause (II)”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the first day

1 of the thirteenth month beginning after the date of
 2 the enactment of this Act.

3 (b) PERIODIC ONSITE REVIEW.—

4 (1) OASDI AMENDMENT.—Section 205(j)(4) of
 5 such Act (42 U.S.C. 405(j)(4)) is amended by add-
 6 ing at the end the following new subparagraph:

7 “(D) The Commissioner of Social Security shall pro-
 8 vide by regulation for the periodic onsite inspection of
 9 community-based nonprofit social service agencies serving
 10 as representative payees under this subsection.”.

11 (2) SSI AMENDMENT.—Section 1631(a)(2)(D)
 12 of such Act (42 U.S.C. 1383(a)(2)(D)) is amended
 13 by adding at the end the following new clause:

14 “(v) The Commissioner of Social Security shall pro-
 15 vide by regulation for the periodic onsite inspection of
 16 community-based nonprofit social service agencies serving
 17 as representative payees under this paragraph.”.

18 **SEC. 203. DISQUALIFICATION FROM SERVICE AS REP-**
 19 **RESENTATIVE PAYEE UPON CONVICTION OF**
 20 **OFFENSES PUNISHABLE BY IMPRISONMENT**
 21 **FOR MORE THAN 1 YEAR.**

22 (a) OASDI AMENDMENT.—Section 205(j)(2) of the
 23 Social Security Act (42 U.S.C. 405(j)(2)) is amended—

24 (1) in subparagraph (B)(i)—

1 (A) by striking “and” at the end of sub-
 2 clause (III);

3 (B) by redesignating subclause (IV) as
 4 subclause (V); and

5 (C) by inserting after subclause (III) the
 6 following new subclause:

7 “(IV) determine whether such person has been
 8 convicted of any other offense punishable under Fed-
 9 eral or State law by imprisonment for more than 1
 10 year (regardless of the actual sentence imposed),
 11 and”; and

12 (2) in subparagraph (C)(i), by adding after and
 13 below subclause (III) the following new sentence:

14 “Benefits of an individual may not be certified for pay-
 15 ment to any other person pursuant to this subsection if
 16 such person has previously been convicted as described in
 17 subparagraph (B)(i)(IV), unless the Commissioner deter-
 18 mines that such certification would be appropriate not-
 19 withstanding such conviction.”.

20 (b) SSI AMENDMENT.—Section 1631(a)(2)(B) of
 21 such Act (42 U.S.C. 1383(a)(2)(B)) is amended—

22 (1) in clause (ii)—

23 (A) by striking “and” at the end of sub-
 24 clause (III);

1 (B) by redesignating subclause (IV) as
2 subclause (V); and

3 (C) by inserting after subclause (III) the
4 following new subclause:

5 “(IV) determine whether such person has been
6 convicted of any other offense punishable under Fed-
7 eral or State law by imprisonment for more than 1
8 year (regardless of the actual sentence imposed),
9 and”; and

10 (2) in clause (iii), by adding after and below
11 subclause (III) the following new sentence:

12 “Benefits of an individual may not be paid to any other
13 person pursuant to subparagraph (A)(ii) if such person
14 has previously been convicted as described in clause
15 (ii)(IV), unless the Commissioner determines that such
16 certification would be appropriate notwithstanding such
17 conviction.”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall take effect on the first day of the thir-
20 teenth month beginning after the date of the enactment
21 of this Act.

1 **SEC. 204. FEE FORFEITURE IN CASE OF BENEFIT MISUSE**
2 **BY REPRESENTATIVE PAYEES.**

3 (a) OASDI AMENDMENT.—Section 205(j)(4)(A)(i) of
4 the Social Security Act (42 U.S.C. 405(j)(4)(A)(i)) is
5 amended—

6 (1) in the first sentence, by striking “A” and
7 inserting “Except as provided in the next sentence,
8 a”; and

9 (2) by inserting before the second sentence the
10 following new sentence: “A qualified organization
11 may not collect a fee from an individual for any
12 month with respect to which the Commissioner of
13 Social Security or a court of competent jurisdiction
14 has determined that the organization misused all or
15 part of the individual’s benefit, and any amount so
16 collected by the qualified organization for such
17 month shall be treated as a misused part of the indi-
18 vidual’s benefit for purposes of paragraphs (5) and
19 (6).”.

20 (b) SSI AMENDMENT.—Section 1631(a)(2)(D)(i) of
21 such Act (42 U.S.C. 1383(a)(2)(D)(i)) is amended—

22 (1) in the first sentence, by striking “A” and
23 inserting “Except as provided in the next sentence,
24 a”; and

25 (2) by inserting before the second sentence the
26 following new sentence: “A qualified organization

1 may not collect a fee from an individual for any
 2 month with respect to which the Commissioner of
 3 Social Security or a court of competent jurisdiction
 4 has determined that the organization misused all or
 5 part of the individual's benefit, and any amount so
 6 collected by the qualified organization for such
 7 month shall be treated as a misused part of the indi-
 8 vidual's benefit for purposes of subparagraphs (E)
 9 and (F).”.

10 (c) EFFECTIVE DATE.—The amendments made by
 11 this section shall apply to any month involving benefit mis-
 12 use by a representative payee in any case with respect to
 13 which the Commissioner makes the determination of mis-
 14 use after December 31, 1999.

15 **SEC. 205. LIABILITY OF REPRESENTATIVE PAYEES FOR**
 16 **MISUSED BENEFITS.**

17 (a) OASDI AMENDMENT.—Section 205(j) of the So-
 18 cial Security Act (42 U.S.C. 405(j)) is amended by redes-
 19 ignating paragraphs (6) and (7) as paragraphs (7) and
 20 (8), respectively, and inserting after paragraph (5) the fol-
 21 lowing new paragraph:

22 “(6)(A) If the Commissioner of Social Security or a
 23 court of competent jurisdiction determines that a rep-
 24 resentative payee that is not a State or local government
 25 agency has misused all or part of an individual's benefit

1 that was paid to such representative payee under this sub-
2 section, the representative payee shall be liable for the
3 amount misused, and such amount (to the extent not re-
4 paid by the representative payee) shall be treated as an
5 overpayment of benefits under this title to the representa-
6 tive payee for all purposes of this Act and related laws
7 pertaining to the recovery of such overpayments. Subject
8 to subparagraph (B), upon recovering all or any part of
9 such amount, the Commissioner shall certify an amount
10 equal to the recovered amount for payment to such indi-
11 vidual or the individual's alternative representative payee.

12 “(B) The total of the amount certified for payment
13 to such individual or the individual's alternative represent-
14 ative payee under subparagraph (A) and the amount cer-
15 tified for payment under paragraph (5) may not exceed
16 the total benefit amount misused by the representative
17 payee with respect to such individual.”.

18 (b) SSI AMENDMENT.—Section 1631(a)(2) of such
19 Act (42 U.S.C. 1383(a)(2)) is amended by redesignating
20 subparagraphs (F), (G), and (H) as subparagraphs (G),
21 (H), and (I), respectively, and inserting after subpara-
22 graph (E) the following new subparagraph:

23 “(F)(i) If the Commissioner of Social Security or a
24 court of competent jurisdiction determines that a rep-
25 resentative payee that is not a State or local government

1 agency has misused all or part of an individual's benefit
2 that was paid to such representative payee under this
3 paragraph, the representative payee shall be liable for the
4 amount misused, and such amount (to the extent not re-
5 paid by the representative payee) shall be treated as an
6 overpayment of benefits under this title to the representa-
7 tive payee for all purposes of this Act and related laws
8 pertaining to the recovery of such overpayments. Subject
9 to clause (ii), upon recovering all or any part of such
10 amount, the Commissioner shall make payment of an
11 amount equal to the recovered amount to such individual
12 or the individual's alternative representative payee.

13 “(ii) The total of the amount paid to such individual
14 or the individual's alternative representative payee under
15 clause (i) and the amount paid under subparagraph (E)
16 may not exceed the total benefit amount misused by the
17 representative payee with respect to such individual.”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to benefit misuse by a representa-
20 tive payee in any case with respect to which the Commis-
21 sioner makes the determination of misuse after December
22 31, 1999.

1 **SEC. 206. EXTENSION OF CIVIL MONETARY PENALTY AU-**
2 **THORITY WITH RESPECT TO REPRESENTA-**
3 **TIVE PAYEES.**

4 (a) IN GENERAL.—Section 1129(a) of the Social Se-
5 curity Act (42 U.S.C. 1320a–8(a)) (as amended by section
6 106) is amended further—

7 (1) by redesignating paragraph (4) as para-
8 graph (5); and

9 (2) by inserting after paragraph (3) the fol-
10 lowing new paragraph:

11 “(4) Any person (including an organization, agency,
12 or other entity) who, having received, while acting in the
13 capacity of a representative payee pursuant to section
14 205(j) or section 1631(a)(2), a payment under title II or
15 title XVI for the use and benefit of another individual,
16 converts such payment, or any part thereof, to a use that
17 such person knows or should know is other than for the
18 use and benefit of such other individual shall be subject
19 to, in addition to any other penalties that may be pre-
20 scribed by law, a civil money penalty of not more than
21 \$5,000 for each conversion. Such person shall also be sub-
22 ject to an assessment, in lieu of damages sustained by the
23 United States resulting from such conversion, of not more
24 than twice the amount of any payments so converted.”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply with respect to violations com-
3 mitted after the date of the enactment of this Act.

○